IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

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WRIT PETITION NO : 3200 of 1997

Between:

1 G.Parvathalu S/o.Chinnaiah
Amarabad,A.P.State Housing Corporation Ltd.,

Mahaboobnagar Dist.
2 P.Venkat Ramulu S/o.Balappa
A.P.State Housing Corporation Ltd., Kodangal,

Mahaboobnagar Dist.
3 M.A.Khaleel Ahmed S/o.Abdul Gaffar
Achampet,A.P.State Housing Corporation Ltd.,

Mahaboobnagar Dist.
4 Basheer Ahmed S/o.Abdul Khader
Maddur,A.P.State Housing Corporation Ltd.,

Mahaboobnagar Dist.
5 D.Venkat Ramana S/o.D.Janardhan
Wanaparthy,A.P.State Housing Corporation Ltd.,

Mahaboobnagar Dist.
6 V.Vishnu Vardhan Reddy S/o.Venkat Reddy
Peddakottapally,A.P.State Housing Corporation Ltd.,

Mahaboobnagar Dist.
7 P.Sairam Reddy s/o.Ramachandra Reddy
Weepanagandla,A.P.State Housing Corporation Ltd.,

Mahaboobnagar Dist.
8 Abdul Gaffar S/o.Abdul Aziz
Pebbair,A.P.State Housing Corporation Ltd.,

Mahaboobnagar Dist.
9 R.Anand Reddy S/o.K.Krishna Reddy
Alampur,A.P.State Housing Corporation Ltd.,

Mahaboobnagar Dist.

... PETITIONERS

AND

1 The Managing Director A.P.State Housing Corporation Ltd., H.No.3-6-160,Urdugally,Himayathnagar, Hyderabad.
2 The District Collector, Mahaboobnagar/Executive Director

A.P.State Housing Corporation Ltd., Mahaboobnagar
3 The District Manager, A.P.State Housing Corporation Ltd., Mahaboonagar Dist.
4 Sri.K.Ramalingam Draughtsman, C/o.District Manager A.P.State Housing Corporation Ltd., Mahaboobnagar Dist.
5 Sri E.Seshaiah C/o.District Manager A.P.State Housing Corporation Ltd., Mahaboobnagar Dist.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus or any other writ, order or direction declaring the proceedings No.A9/3146/95 dated 4-2-1997 passed by Respondent-1 in so far as it pertains to reversion of petitioners and appointment of Respondents 4 and 5 is concerned as illegal, arbitrary without the authority of law, unconstitutional and further declare that the petitioners are entitled to continue as Assistant Engineers with all consequential benefits and pass any other order or orders deemed fit and proper in the interest of justice and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioners : MR.A.RAJASEKHAR REDDY

Counsel for the Respondents 1 to 3 : V.CH.NAIDU

Counsel for the Respondents 4 and 5: MR.P.BHASKAR MOHAN

The Court made the following :

ORAL ORDER:

This writ petition is filed by the petitioners, who are nine in number, assailing the proceedings of the first respondent dated 4.02.1997, under which respondents 4 and 5 were promoted, along with two others, to the post of Assistant Engineers.

The grievance of the petitioners is that they are seniors in the respondents

Corporation in Mahabubnagar District and they are eligible for promotion as Assistant Engineers, and in fact, they were placed as In charge Assistant Engineers, with effect from 1987 and are being continued as such. Even though they are eligible for promotion as regular Assistant Engineer and contrary to the directions of this Court to consider their case for promotion, first respondent passed the impugned order promoting respondents 4 and 5 along with two others. Therefore, the petitioners have come up with the present writ petition, not only seeking to quash the said order, but also for a consequential direction to the respondents to promote them as regular Assistant Engineers.

The claim of the petitioners is contested by the respondents by disputing the facts stated in the affidavit. In the counter, the respondents' corporation has reiterated the facts that are stated in the proceedings dated 4.02.1997, as per which, in Mahabubnagar District, there are only 17 posts of Assistant Engineers. Out of the 17 posts, 13 posts were filled up with regular Assistant Engineers, who were working even prior to the issuance of regularization orders under G.O.Ms.No.182, dated 13.11.1991. Thereafter, there were only four vacancies and out of them, one is backlog vacancy set apart for S.Ts. With reference to the other three vacancies, it is stated that 50% of the vacancies are to be filled with Engineering Graduates, while the other 50% are earmarked for the Diploma holders. Further, as per the seniority list, 4th respondent was the senior most among the Work Inspectors possessing the requisite qualifications, and therefore, he was promoted against the Roster Point No.19, meant for O.Cs. Similarly, one
Sri G.Narayana, who is also a Diploma holder and belongs to
BC-A category, was promoted. With reference to the third vacancy, one Sri E.Seshaiah, who is an Engineering Graduate recruited through Employment Exchange, was promoted against Roster Point No.21. After filling up of those vacancies, there are no vacancies. Apart from the fact that all the petitioners are Diploma holders and are not entitled for promotion against the vacancies available even in future, they are to be considered only against 50% of the vacancies, as the balance of 50% vacancies are reserved for Engineering Graduates.

Learned counsel for the respondents' Corporation contended that there is absolutely no merit in claiming that the petitioners are eligible for promotion, as regular vacancies of Assistant Engineers are not available. In reply, learned counsel for the petitioners, however, contended that the Government issued G.O.Rt.No.114,

dated 19.04.1999, protecting the persons who were holding incharge posts of Assistant Engineers and continuing them in their own scale of pay till their turn comes up for promotion to the post of Assistant Engineer.

Though the petitioners sought for promotion by quashing the impugned order dated 4.02.1997, with a consequential direction to promote them as regular Assistant Engineers, there is absolutely no merit in their claim in view of the categorical finding based on facts brought on record in the impugned order itself. However, as the Government has already issued orders under G.O.Rt.No.114 dated 19.04.1999, the petitioners are entitled to the protection of the said order for being continued as Incharge Assistant Engineers till their turn comes up for promotion.

The writ petition is accordingly disposed of. No costs.

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30th September, 2004

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To

1. The Managing Director,

A.P.State Housing Corporation Ltd.,
H.No.3-6-160,Urdugally,Himayathnagar, Hyderabad.

2. The District Collector, Mahaboobnagar-cum-

Executive Director, A.P.State Housing Corporation Ltd.,

Mahaboobnagar

3. The District Manager,

A.P.State Housing Corporation Ltd.,
Mahaboonagar Dist.
4. Two CDs.

5. 2 CCs to the Advocate General, High Court buildings,

Hyderabad (OUT)